

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.9621 of 2016

All India Indian Overseas Bank OBC staff
Welfare Association (Regd.No.192/2007),
Rep. By the General Secretary,
Mr.A.Rajasekaran,
No.6, West Avenue Road,
Kodambakkam, Chennai - 24.

.. Petitioner

Vs

- 1.The Chairman and Managing Director,
Indian Overseas Bank,
Corporate Office,
762, Annasalai, Chennai - 2.
- 2.The Chief Executive Officer,
Indian Overseas Bank,
Corporate Office,
762, Annasalai, Chennai - 2.
- 3.Central Industrial Cum Labour Tribunal,
Shasthri Bhavan, No.6, Haddows Road,
Chennai - 6.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the entire records relating to the impugned order of the Central Industrial-cum-Labour Tribunal award in I.D.No.82/2013, dated 27.02.2015 as invalid and violative of the provisions of the Constitution of India and quash the para 9 of the award and consequently direct the first respondent to recruit the sweepers in accordance with law and bi-patriate settlement in force.

For petitioner : Mr.A.Rajasekaran, Party-in-person

For R1 & R2 : Mr.G.Anand,
for M/s.T.S.Gopalan & Co.

ORDER

This writ petition is directed against the correctness of the impugned award dated 27.02.2015 passed in I.D.No.82 of 2013, by the Central Industrial-cum-Labour Tribunal (in short "the Tribunal"),.

2. Mr.A.Rajasekaran, appearing as party-in-person, submitted that All India Indian Overseas Bank OBC Staff Welfare Association was registered in Regd.No.192/2007, dated 25.06.2007, under the Rule 8 of Tamil Nadu Societies Registration Rules 1978 of Tamil Nadu Act 27 of 1975. It is further submitted that he is working for the welfare of the employees of Indian Overseas Bank, more particularly, in the matter of the recruitment of sweepers, messengers and armed guards. Whiles, in the matter of recruitment of certain staffs to the Indian Overseas Bank, the Ministry of Labour and Employment, Government of India, vide its order dated 08.08.2013, referred the said Industrial Dispute to the Tribunal. Thereafter, the Tribunal has renumbered the same as I.D.No.82/2013 and issued notice to the respondents as well as the petitioner to answer the dispute referred to. Finally, after the considering the submissions of the counsels appearing for both parties, the Tribunal has rejected the claim made by the petitioner.

3. It is further submitted by the petitioner appearing as party-in-person that while he is functioning as the General Secretary of the All India Indian Overseas Bank OBC Staff Welfare Association, the Indian Overseas Bank had arrived at a settlement under Section 12(3) of the Industrial Disputes Act (in short "the Act") on 17.02.2011, whereby, as per Clause 3(g) of the Settlement, the parties have agreed that vacancy for Sweepers either part-time or full time arising on or after 15.11.2010 will be outsourced. This Clause in the settlement is against the interest of the OBC, SC and ST employees of the Bank. Therefore, taking note of such facts, the petitioner Association have objected for the above said settlement. Since the vacancies arising for the post of Sweepers are going to be outsourced, naturally, the sweepers, who had joined after 15.11.2010 on contract basis, may be allowed to remain as sweepers without any promotion. Hence, challenging Clause 3(g) of the Settlement, this dispute has been raised, but, the Tribunal has rejected the same holding that the settlement is binding on all the workmen of the respondent, hence, the petitioner is not entitled to challenge any Clause. The said approach of the learned Tribunal, he pleaded, is wholly untenable, therefore, the impugned award is liable to be interfered with.

4. Per contra, learned counsel appearing for the respondents 1 and 2 submitted that the petitioner is a total stranger to the Settlement reached on 17.02.2011 under Section 12(3) of the Act. Further, it is stated that when the workmen represented by the Union have agreed for settlement and accordingly a settlement has also been reached on 17.02.2011 under Section 12(3) of the Act inserting Clause 3(g), which states that vacancy for Sweepers either part-time or full time arising on or after 15.11.2010 will be outsourced, the petitioner, being a stranger and noway connected to the Settlement, cannot be allowed to say that he is aggrieved by such Settlement entered on 17.02.2011.

5. Referring to Section 2(k) of the Industrial Disputes Act, it is stated that industrial dispute means, any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. Since in the case on hand, the petitioner is not falling within the ambit of Section 2(k) of the Act, the Tribunal has rightly rejected the claim of the petitioner challenging the correctness of the Settlement reached under Section 12(3) of the Act on 17.02.2011.

6. I also find merit on the above said submissions of the learned counsel for the respondents 1 and 2. Given the facts and circumstances of the case, it is necessary to extract Section 2(k) of the Act, which is stated below:-

"2 (k) "industrial dispute" means, any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

A mere perusal of the above provision clearly eliminates the petitioner's locus to question the correctness of the impugned award passed by the Tribunal, the reason is that the petitioner, being a General Secretary of the All India Indian Overseas Bank OBC Staff Welfare Association, is neither an employee nor a workman working under the respondent Bank, therefore, the petitioner cannot question the correctness of the Settlement reached on 17.02.2011 under Section 12(3) of the Act.

7. Thus, for the reasons stated above, the impugned award passed by the Tribunal is hereby confirmed and the writ

petition is dismissed as devoid of any merit. Consequently, WMP.No.34984 of 2018 filed by petitioner Association seeking to implead the All India Indian Overseas Bank Employees Union is rejected. No Costs. WMP.Nos.8654 of 8655 of 2016 are closed.

rkm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman and Managing Director,
Indian Overseas Bank,
Corporate Office,
762, Annasalai, Chennai - 2.
- 2.The Chief Executive Officer,
Indian Overseas Bank,
Corporate Office,
762, Annasalai, Chennai - 2.
- 3.Central Industrial Cum Labour Tribunal,
Shasthri Bhavan, No.6, Haddows Road,
Chennai - 6.

+1CC To M/s.T.S.Goplan & Co.,Advocate SR.NO.82701.

W.P.No.9621 of 2016

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kak(28/12/2018)

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